

Milk Contractor Deferred Payment Requirements

If you intend to begin entering into deferred payment agreements with your producers, please be sure to follow all the statutory requirements outlined below.

Financial Statements & Security

- Before you use deferred payment contracts, you must have filed a reviewed or audited annual financial statement with the department.
- If your financial statement has negative equity or a debt to equity ratio greater than 4.0 to 1.0, you will have to file security that is at least equal to the milk contractor's highest total of unpaid deferred payment contract obligations at any time during the preceding 12 months. Initially, you will need to estimate your expected highest total of unpaid deferred payment contract obligations for the upcoming year.
- Each month, milk contractors filing security will also be required to file monthly reports that indicate their total monthly milk payroll obligations and the total unpaid milk payroll obligations under deferred payment contracts. These reports will be used to determine whether the appropriate amount of security is on file with department. Any deficiency in security will result in a demand for an increase in the amount of security filed.

Assessments

- There will be a separate Agricultural Producer Security Fund assessment for contributing milk contractors using deferred payment contracts. The assessment amount will be the amount deferred multiplied by the deferred payment assessment rate. The law permits you to deduct the assessment from the deferred amount paid to the producer. If you are not a contributing milk contractor, there will be no deferred payment assessment; therefore, there will be no amount to deduct from your producer. You will report the total amount of producer payments that were deferred on your milk contractor application annually. At the beginning of the license year, the department will then send you an invoice for the deferred payment assessment. The amount of this invoice should equal the amount withheld from producers the previous fiscal year.
- The deferred payment assessment rate will be determined by department emergency rule. We expect an emergency rule to be issued by August 1, 2018. Any deferred payment contracts entered into and paid before the rate is established must still be reported on your milk contractor renewal application.

Written Contracts

- The deferred payment contract must be in writing and contain:
 - A unique contract identification number.
 - The specific payments or portions of payments that are being deferred.
 - The date the milk contractor agrees to make full payment not more than 120 days after the original due date.

- A statement in clear and conspicuous print immediately above the contract signature line stating: "The milk contractor (buyer) becomes the owner of any milk that the producer or producer agent (seller) delivers to the milk contractor under this contract. The producer or producer agent relinquishes ownership and control of the milk, and may become an unsecured creditor pending payment."
- A statement that the milk contractor deducts the deferred payment contract assessment established by the department by rule under s. 126.46 (1) from the amount paid to a milk producer or producer agent under a deferred payment contract.

If you have any questions, contact Scott Manthey at (608) 224-4966 or scott.mantry@wisconsin.gov.